

Charter Review & Revision Board

Members:

Stephen Zack, Esq., Chair - Present
Aaron Perry, Vice Chair - Present
Scott Diffenderfer - Absent
Jacqueline Lalonde - Present
Rick Kendle - Present
Alex Fernandez - Present
Richard "Rick" J. Preira - Absent

Staff:

Donald Papy, Chief Deputy City Attorney - Present Debora Turner, First Assistant City Attorney - Present Rafael E. Granado, City Clerk - Present Liliam Hatfield, OAV, City Clerk's Office - Present

MINUTES

Monday, September 9, 2013 at 4:30 p.m. Commission Chambers, Third Floor, City Hall Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

Meeting called to order at 4:35:25 p.m. by Chair Zack.

Roll call by Rafael E. Granado, City Clerk. Member Diffenderfer notified the City Clerk by telephone that he will be late due to a conflict with another meeting; however, he was absent. Member Preira is also absent.

1. Accept Minutes Of The August 19, 2013 Charter Review & Revision Board Meeting. Motion by Member Fernandez to approve the minutes; seconded by Vice-Chair Perry; Voicevote: 5-0. Absent: Members Diffenderfer and Preira.

INFORMATIONAL ITEMS

Chair Zack asked when the traffic issue would be placed on the agenda, and City Clerk Granado explained that the Transportation & Parking Committee is meeting today, and since there were no future dates scheduled, the item is still pending.

Chair Zack informed that he met with Mayor Bower, at her request, to discuss the board's accomplishments, and the issue of whether the new Commission will extend jurisdiction until next year. A report will be given to the new Commission for their consideration. Mayor Bower expressed her gratitude to all CRB members for the work done.

2. Promoting CRB issues in social media – Nannette Rodriguez to present. Chair Zack introduced the item.

Nannette Rodriguez, Communications Office Director, introduced the item and stated that they will include some articles on MB Magazine, on MBTV, and in addition, they will add something on the Employee Newsletter.

Vice-Chair Perry suggested promoting a synopsis of what the CRB has worked on and Ms. Rodriguez stated that users will be redirected to the CRB website, which already has a lot of information. Discussion held.

Ms. Rodriguez explained that traffic is a topic of interest for residents, especially in social media, and their department will share any comments made on social media.

Rafael E. Granado, City Clerk, added that a copy of the agenda is also sent to The Miami Herald.

Vice-Chair Perry suggested sending information to the Miami Beach News community newspaper.

Discussion continued.

Member Kendle suggested adding questions for future discussion on social media, and invite residents to attend meetings when discussed. She explained that they can definitely add this to the social media and report of any feedback received.

There was some discussion regarding the Charter Review email and that no recent correspondence has been received.

Member Fernandez stated, for the record, that the issue of getting more people to discuss these issues has come up many times, and the neighborhood associations are what bring people to the Chambers. He thinks they also need to do their part in speaking to sectors in the community that will help bring feedback and active members of the community to the Chambers.

Nannette Rodriguez explained that these meetings are televised and replayed.

Chair Zack stated that on average only 3% of people read the newspaper editorial pages and they get their communication through the Internet and the Social Media. How they communicate is problematic. The question is how to find a medium that will capture the public's attention. Nannette Rodriguez will promote meetings and CRB link on social media.

Announcement

Mr. Granado announced that there is a meeting scheduled after 6 PM in the Chambers.

Request from Member Fernandez

Member Fernandez explained that at previous meetings he had asked the City Manager to reach out to department heads to see if they had any recommendations for the CRB to take up as new items. He suggested following up on this item. **Rafael E. Granado to handle.**

- **3. Preservation Of Beaches –** Proponent Rick Preira Item deferred.
 - **a. Section 1.03 Power of City** Proponent Rick Kendle Item not reached.
- **4. Section 2.02 Term And Compensation** Review the amendments to the Compensation Section drafted by the City Attorney's Office at the request of the CRB. Debora Turner to present.

Debora Turner, First Assistant City Attorney, explained that the amendments proposed attempt to resolve the language issue with regard to compensation and salary, since there was compensation used in the title, and they defined it to mean salary and benefits, and also they have referred to the dollar amount that each Commissioner or the Mayor receives, they have referred to this as "the salary," and they have also provided that benefits shall also be provided via resolution or ordinance.

Discussion held. Chair Zack explained that compensation refers to salary and compensation, why should the language not be salary and benefits. Ms. Turner explained that the Mayor and Commission receive other types of benefits that are beyond the dollar value.

Chair Zack made a motion to replace language "salary" to "compensation." Discussion continued.

Member Lalonde explained that they need to include the disclosure of total compensation, and salary is a separate item. They want to vote on salary as being a dollar number and the rest is total compensation, in order to have a clear delineation of what salary is and a clear disclosure of compensation is, which will be salary plus benefits.

Discussion continued. Ms. Turner distributed Version 2 of the proposed text, which establishes based on today's dollars what the salary should be.

Ms. Lalonde asked if the annual disclosure for total compensation would be added in this paragraph, and Ms. Turner stated that it will be added. There was a lengthy discussion regarding language to define salary and compensation.

Ms. Turner clarified that the salary will be the same.

Member Lalonde suggested adding that the salaries will be approved via the budget process.

Chair Zack stated that they need two paragraphs: 1) defining compensation; "Compensation shall include salary and benefits; and benefits are defined as anything of value received by a Commissioner, including but not limited to expenses, travel, leave time, etc. All benefits must be approved by ordinance. This is one paragraph. Then 2) The annual salary of the Commission shall be \$6,000; two separate paragraphs might make it clear. Discussion continued regarding the definitions of benefits received and retained, stipends and salary/compensation.

Chair Zack explained that if a person receives a benefit, even if it is given away, it is received, either in the form of a charitable recognition or public relations promotion.

Discussion continued regarding expenses, receipt of tickets for events and "true" benefits and perks.

Discussion continued and Member Kindle suggested leaving the last paragraph that reads, "benefits and expenses for the Mayor and City Commission shall be approved by the City Commission by ordinance," and suggested including "that the salaries be kept at \$6,000 and adjusted retroactively at this date per CIP."

Member Lalonde agreed that the amended language should read, "the Office of Commissioners shall receive \$6,000 and adjusted retroactively based on CPI"; **Debora Turner, First Assistant City Attorney to provide draft of amended language.**

Discussion held about the definition of benefit (including allowances, stipend and/or expenses), and transparency issues.

MOTION ON BENEFITS AND COMPENSATION:

Motion by Member Kindle; seconded by Vice-Chair Perry, with amendments offered by Member Lalonde to amend language as follows: create two paragraphs to: 1) define compensation; "Compensation shall include salary, benefits and expense allowance; benefits are defined as anything of value received by a Commissioner, including but not limited to expenses, travel, leave time, etc. All benefits and allowance must be approved by ordinance; and 2) the annual salary of the Commission shall be \$6,000 retroactively adjusted to the annual CPI rate from 1966. Voice-vote: 5-0; Absent: Members Diffenderfer and Preira. **Don Papy, Chief Deputy City Attorney, to research pensionable benefits language.**

Question and answers period was held regarding pensionable allowance.

Don Papy, Chief Deputy City Attorney, stated that the way the Code is written, salary and other allowances language is broad.

Member Fernandez thinks that language should be added that "other allowances" are not pensionable. Discussion continued.

Mr. Papy explained that the pension ordinance requires amendment, and these are technical questions that require research. The pension calculation is made by the Pension Office.

Member Fernandez stated that they are proposing an increase based in CPI and also proposing that they approve benefits and allowances approved as part of the ordinances; he is requesting, regardless of what the Pension Ordinance reads, that these benefits are not going to be pensionable. Discussion continued. Don Papy

5. Section 2.07 – Vacancies in City Commission - Review the amendments to the Section drafted by the City Attorney's Office at the request of the CRB. Debora Turner to present.

Item deferred by City Attorney's Office.

6. Sections 3.01, 4.01 and 4.03 – City Attorney, City Manager and City Clerk – Review cleanup language to the Sections proposed by the City Attorney's Office. Debora Turner to present.

Debora Turner, First Assistant City Attorney, distributed copies of Sections discussed with proposed amendments. She suggested clean up language to match how the language will go in accordance with the City Manager and City Clerk context. She added similar language to state: "the City Attorney shall be appointed by the City Commission." In addition, there is no word for compensation in the City Attorney's Office, and to make it uniform all three sections will include similar language. Compensation, the City Attorney's provision language deals with salary and other benefits and total packages, and she has added that to the City Attorney section.

MOTION:

Motion by Member Fernandez, seconded by Member Kindle to approve clean-up language for Sections 3.01, 4.01 and 4.03. Voice-vote: 5-0; Absent: Members Diffenderfer and Preira.

- **7. Discussion of Section 2.02 Term And Compensation** Item added to the agenda by acclamation during the August 19, 2013 CRB meeting.
 - a. Discussion of the Term of Office for the Mayor (currently it is two years).
 - b. Discussion of Term Limits

Item not reached.

8. Discussion of Section 6.03 – Qualifying

- a. Discussion of residency requirements Proponent Jacqueline Lalonde
- b Discussion regarding adding a resign to run provision for Land Use Board Members who become candidates for elective office Proponent Alex Fernandez

Item not reached.

9. Discussion of Section 2.07 – Vacancies In City Commission Relating To Succession For The Office Of The Mayor In The Event Of A Vacancy – Proponent Alex Fernandez

Item not reached.

- **10. Whistle Blowing Protection for Employees –** Proponent Frank Del Vecchio. Item withdrawn by Mr. Del Vecchio.
- 11. Items Requested By CRB Member Fernandez To Be Added To The List Of Discussion Item. (See Item 11, Page 27).

Item not reached.

12. Schedule additional meeting dates.

The next meetings were scheduled as follows:

Wednesday, October 2 at 4:30 p.m. in the City Manager's Large Conference Room, and Monday, October 21, 2013 at 4:30 p.m. in the Commission Chambers, Third Floor, City Hall.

PENDING ITEMS:

Inspector General – Proponent Rick Kendle

Chief Zack announced that he will apparently be unavailable during the week through the end of December, as he will be out of the City. He will notify when the assignment is confirmed, and he will be available via Skype or by phone. He recognized Mayor Bower in the audience, and he stated that he met with them over the weekend and had an interesting and positive discussion regarding Mayor salaries. The question of a new Chair was raised, but Chair Zack cannot disclose any more at this time.

Mayor Bower recognized the work done by the Board and thinks that the new Commission group will extend their jurisdiction for the betterment of the community.

Handouts or Reference Materials:

- 1. Proposed Charter Text Version 1
- 2. Proposed Charter Text Version 2
- 3. Proposed Charter Text Sec. 3.01
- 4. Proposed Charter Text Sec. 4.01 and Sec. 4.03